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EXAMINER

CHEN, JUNPENG

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex Parte SEAN A. RAMPRASHAD

Appeal 2017-009071
Application 12/786,285
Technology Center 2600

Before JEAN R. HOMERE, BETH Z. SHAW, and
JON M. JURGOVAN, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Appellant² seeks our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1–24, which represent all the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Throughout this Decision we have considered the Appeal Brief filed November 3, 2016 (“Br.”), the Examiner’s Answer mailed May 2, 2017 (“Ans.”) and the Final Office Action mailed April 30, 2015 (“Final Act.”).

² Appellant identifies NTT DOCOMO, Inc. as the real party in interest. Br. 1.

INVENTION

Appellant's invention is directed to techniques where a number of coordinated/cooperative-signaling antennas are used to serve a coverage area containing multiple users. Spec. ¶ 2.

Claim 1 is illustrative and reproduced below, with disputed limitations emphasized:

1. (Previously Presented) A method for use in a cooperative signaling MIMO system having therein a plurality of different cooperative MIMO controllers and a plurality of antenna groups, each communicably coupled with one of the controllers, the method comprising:

locating the plurality of antenna groups within a plurality of cells across a geographic area, wherein no two adjacent cells, each having at least one of the plurality of antenna groups therein, transmits via the same frequency,

at different transmission instances, *selectively activating one or more antennas* across frequency and/or time in the cooperative signaling MIMO system *to vary which subset of antennas are active among antennas used for each of the controllers in the system,*

including applying a power pattern which specifies non-uniform power assignments to each antenna based on supportable user rates when active as a function of the frequency and/or time for the one or more antennas being selectively activated, and

performing cooperative MIMO transmission under control of each controller in conformance with antenna activation and the non-uniform power assignments to each antenna based on supportable user rates as assigned for each transmission time.

REJECTIONS

The Examiner rejected claim 24 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Act. 3–4.

The Examiner rejected claims 1–4, 9–11, 14, 16–18, 20–22, and 24 under 35 U.S.C. § 102(e) as being anticipated by Caire (US 2010/0040006 A1; Feb. 18, 2010). Final Act. 4–14.

The Examiner rejected claims 5–8, 12, 13, 15, 19, and 23 under 35 U.S.C. § 103(a) as being unpatentable over Caire and prior art admission by applicant (“APAA”) (US 2010/0304773 A1; Dec. 2, 2010). Final Act. 14–19.

ANALYSIS

We have reviewed Appellant’s arguments in the Brief, the Examiner’s rejection, and the Examiner’s response to the Appellant’s arguments. Appellant does not proffer sufficient argument or evidence for us to find error in the Examiner’s findings. *See Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). We agree with and adopt the Examiner’s findings and conclusions in the Final Rejection (Final Act. 2–19) and Answer (Ans. 20–22).

Appellant argues Caire does not disclose “*selectively activating one or more antennas across frequency and/or time in the cooperative signaling MIMO system to vary which subset of antennas are active among antennas used for each of the controllers in the system.*” Br. 10–17. In particular, Appellant argues that while Caire performs varying of the antenna coordination pattern by changing the cluster arrangements, this does not constitute “selectively activating one or more antennas.” Br. 13–17.

In response, the Examiner finds that Caire discloses that coordination patterns direct the antennas to switch on or off in various clusters or cells. Ans. 21 (citing Caire ¶ 89). The Examiner finds Caire therefore “discloses

that the coordination patterns are based on the antennas being controlled to be ON/OFF (i.e. selectively activating) to vary the different subsets of antennas.” *Id.*

We agree with the Examiner’s findings because paragraph 89 of Caire explains that “patterns may also direct some of the antennas to switch on or off in various clusters or cells. For example, in any of the previously discussed figures, various antennas or base-stations may be powered off in various patterns.” In addition to the disclosure of the patterns discussed in paragraphs 36 and 37, Caire therefore discloses the claimed limitations because the patterns direct some antennas to be selectively activated (i.e., turned on or off), thus disclosing “selectively activating one or more antennas” across frequency or time in the cooperative signaling MIMO system “to vary which subset of antennas are active among antennas used for each of the controllers in the system.”

Appellant argues the Examiner improperly broadens the reference. Br. 18–20. As discussed above, the Examiner sufficiently explains how Caire anticipates the claims. Anticipation “is not an ‘ipsissimis verbis’ test.” *In re Bond*, 910 F.2d 831, 832-33, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (citing *Akzo N.V. v. United States Int’l Trade Comm’n*, 808 F.2d 1471, 1479 & n. 11, 1 USPQ2d 1241, 1245 & n. 11 (Fed. Cir. 1986)). “An anticipatory reference . . . need not duplicate word for word what is in the claims.” *Standard Havens Prods. v. Gencor Indus.*, 953 F.2d 1360, 1369 (Fed. Cir. 1991). The Examiner responds by explaining how the reference is mapped to the claim. Ans. 21–22. In the absence of sufficient evidence or line of technical reasoning to the contrary, the Examiner’s response is reasonable and we find no reversible error.

Therefore, for these reasons, and for the additional reasons stated in the Final Rejection and Answer, we sustain the 35 U.S.C. § 102(e) rejection of claim 1. We also sustain the 35 U.S.C. § 102(e) rejection of dependent claims 2–4, 9–11, 14, 16–18, 20–22, and 24, which are not separately argued with particularity. We also sustain the rejections of claims 5–8, 12, 13, 15, 19, and 23 under the 35 U.S.C. § 103(a) over the combination of Caire and AAPA, because those claims are not separately argued with particularity.

Additionally, we sustain the 35 U.S.C. § 101 rejection of claim 24, which Appellant does not traverse. Br. 9–10.

DECISION

The decision of the Examiner to reject claims 1–24 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED